Number two, what we want to achieve by this article can be achieved by the executive agency of the government.

Number three, I come back to my argument that you have all heard about the establishment of these new rights in the constitution. The sentence that says, "The general public interest requires the availability of reasonable prices of energy of all types and the encouragement of energy conservation." What do you mean, "energy of all types"? Does this mean that --

MS. JONES: Speak to the question to strike.

MR. OULAHAN: Well, Madame Chairperson, I am defending my suggestion to exclude this provision. I don't know what this language means. I think we are creating the same kinds of problems we saw last night -- a whole series of rights which could be taken care of by the Governor -- and creating some goals here which I don't think this new state can afford to do.

Thank you.

MS. JONES: Delegate Eichorn?

MS. EICHORN: I have two questions, and I am sorry I was here late. One is, have we established a separate agency?

MR. CROFT: No. You missed the amendment. The

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language has been amended.

MS. JONES: I am sorry to interrupt, but the court reporter cannot pick you up. Can you come to the front?

MS. EICHORN: I'll just speak louder. I'm concerned with --

MS. JONES: I think that you need to come to the front, because we cannot pick you up.

MS. EICHORN: I have two questions. I am concerned about whether we are establishing two separate agencies to limite the executive --

MR. CROFT: Can I respond? We have amended the language. The language says "establish an agency or agencies within one of the principal executive departments" within the 20 --

MS. EICHORN: That's under Section 2 that we did that?

MR. CROFT: That's under Section 3 on line 2. We also struck, on line 15, "of all types".

MS. EICHORN: Under Section 2, Utilities, though, did you establish a separate agency?

MR. CROFT: "Commission", to get around the use of the word, "agency".

MS. EICHORN: My other concern is that I honestly

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do not understand this need for other energy types. I have read the Committee Report, and I still do not understand why this can't be incorporated within the other agency.

MS. JONES: Delegate Croft?

MR. CROFT: May I respond to that. Because there are energy sources that are not recommended by the public utility commissions. For example, home heating oil is not regulated. Propane gas is not regulated. And they do not fall under the kind of jurisdiction of a public utility commission, because they are sold by a whole series of individual entrepreneurs. We are not asking for a separate agency, but within one of the principal departments, there shall be somebody, some group that handles those kinds of things, but that they currently are not regulated.

MS. EICHORN: So what you are doing is mandating the legislature to adopt laws to regulate these areas?

MR. CROFT: These types of energy sources.

MS. EICHORN: And then, to entrust that responsibility to an existing department as appropriate?

MR. CROFT: Right.

MS. EICHORN: All right, then, I would support that thrust. I just wanted to make sure.

MS. JONES: Delegate Long?

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MR. LONG: I am opposed to this section on the basis that the state is fully empowered to do whatever it wants along this line. We already have the D.C. Energy Office which does have control over the sale of gasoline under certain conditions, also has control over heating oil distribution. We are creating a mandate to do something which may be needed at some time and may not at others. Energy is topical over the last few years. Fifteen years from now, there may be fusion, pumping energy through the economy at a cost much lower than we have ever been able to produce electricity, and all of this is garbage. Why mandate laws when they are based on aspecific need at a specific time?

Again, we are cluttering up the constitution with mandates and authorities which are available to the states at any time it wishes to exercise them.

MS. JONES: Delegate Croft, would you like to make a final, last statement?

MR. CROFT: Yes, I would like to make a final statement in opposition. A number of the people have testified before our Committee at the public hearing, at the public roundtable, and the point I want to make is that representatives from the D.C. Energy Department did indeed testify, and they did provide the Committee with a written statement, and

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they supported this section. The people who represented consumer interest groups in this area supported this section. And the point I want to make is that on this whole section on public utilities, of the people who came to testify before us, the only people who wanted language less than we offered or no language at all were the people who represented PEPCO.

MS. JONES: Delegate Norman Nixon?

MR. NIXON: Madame Chairman, I move the previous question.

(Whereupon, the motion was duly seconded.)

MS. JONES: I will entertain the motion to move the previous question as soon as I let the speaker of the motion have the last say.

Delegate Cooper?

MR. COOPER: Again, I would just like to urge my fellow delegates to vote this amendment up and strike Section 3, because this is one of many phoenix-type provisions that in the Committee were killed and reborn, killed and reborn, killed and reborn again. So vote this thing down on the horrible precedents.

MS. JONES: I will entertain a motion to cut off debate. Is there a second?

(Whereupon, the motion was duly seconded.)

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MS. JONES: All those in favor of cutting off debate will signify by raising their hands.

(A show of hands.)

MR. COOPER: Nineteen.

MS. JONES: Those opposed?

(No response.)

MS. JONES: Abstentions?

(No response.)

MS. JONES: Mr. Secretary, read the vote.

MR. COOPER: Nineteen in favor of cutting off debate.

MS. JONES: The debate is cut off.

Is there a point of procedure?

MR. BARNES: Yes, I would like the Chairman to please ask for a voice vote on the question.

MS. JONES: Delegate Barnes, the reason I am not asking for a voice vote is that I don't think there is a need to participate in any kind of confusion at this point.

We are back to the main motion. All those in favor of the motion to strike will raise their hands. This is to strike the section.

(A show of hands.)

MR. COOPER: Eleven.

MS. JONES: Those opposed?

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(A show of hands.)

MR. COOPER: Ten.

MS. JONES: All those opposed to the motion to strike, hold up your hands.

(A show of hands.)

MR. COOPER: Nine.

MS. JONES: The motion to strike passes.

MR. JACKSON: I saw ten votes.

MR. COOPER: You all wanted a recount, and it ended up nine the second time.

MS. JONES: I have an announcement to make at this point. The President of the Convention, Delegate Cassell, has been taken to the hospital. We will be called later today to say whatever his condition is. We have a note from Delegate Harris to say she is on her way.

MR. KAMENY: Is there any information as to what the medical problem is?

MS. JONES: Delegate Kameny, the note just indicates that it is a problem with blood pressure.

MR. KAMENY: All right. That's all I wanted to know.

MS. JONES: Delegate Lockridge?

MS. LOCKRIDGE: If I am in order, Madame Chairman, I would like at this time to entertain a motion that regardless

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of whoever comes, you will continue to Chair this meeting.

(Whereupon, the motion was duly seconded.)

MS. JONES: I think that that motion is out of order.

MS. LOCKRIDGE: I asked if it was in order, and I did not hear anyone say it was not.

MS. JONES: Delegate Schrag?

MR. SCHRAG: I think such a motion would be in order, but I think it requires a two-thirds vote as a suspension of the rules. "Robert's Rules" provides that when an officer of the chain of command arrives, that officer automatically assumes the Chair.

MS. JONES: Delegate Lockridge, would you like for me to carry that motion through?

MS. LOCKRIDGE: Yes, please.

MS. JONES: I think that you have to moye that we suspend the rules.

MS. LOCKRIDGE: I so move.

MR. COOPER: Madame Chairman, point of procedure. We don't even have 30 delegates here.

MS. JONES: That's right. We can't get a two-thirds vote.

MR. SCHRAG: Point of order.

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MS. JONES: I stand corrected. It is two-thirds present and voting.

There is a motion on the floor to suspend the rules; is there a second?

(Whereupon, the motion was duly seconded.)

MS. JONES: It has been properly moved and seconded to suspend the rules.

All those in favor will raise their hands.

(A show of hands.)

MR. COOPER: Twenty.

MS. JONES: Those opposed?

(A show of hands.)

MR. COOPER: One.

MS. JONES: Are there any abstentions?

(A show of hands.)

MR. COOPER: One.

MS. JONES: Would you read the vote?

MR. COOPER: Twenty in favor of suspending the rules, one not in favor, one abstention.

MS. JONES: The motion passes.

Delegate Lockridge?

MS LOCKRIDGE: Fellow delegates, I would like to propose at this time that Delegate Theresa Jones continue to

Chair this plenary session.

(Whereupon, the motion was duly seconded.)

MS. JONES: Those in favor will show their hands.

(A show of hands.)

MR. COOPER: Twenty-two.

MS. JONES: Those opposed?

(A show of hands.)

MR. COOPER: One.

MS. JONES: Are there any abstentions?

(No response.)

MS. JONES: Would you read the vote?

MR. COOPER: Twenty-two in favor; one not in favor.

MS. JONES: The motion carries.

S2 Good afternoon, Delegate Harris. The rules were just suspended, and there was a motion put on the floor that I continue to chair this plenary session, no matter who came next in line. There is a note in behalf of Mr. Cassell saying what was wrong with him, and I did announce all of that to the body.

MS. MAGUIRE: Move the orders of the day.

MS. JONES: Delegate Croft?

MR. CROFT: Madame Chair, I move the adoption of Section -- I guess it would become Section 3; it is now

Section 4 -- Right of the Public to Own Utilities, with the following changes.

On line 13, take out the word, "appropriation".

(Whereupon, the motion was duly seconded.)

MS. JONES: This is part of the Committee's report?

MR. CROFT: Yes, I moved that section, and I will check to see if there are any --

MS. JONES: Was there a second?

MR. CROFT: Yes.

MS. JONES: Is there a minority report?

MR. CROFT: Yes, there is. The minority report is page 8, Section 4, should read as follows: "Utilities are hereby declared to be works of public necessity and importance in which the state may engage. The legislature may enact laws to empower the state to acquire for itself or for a similar cooperative-type purchase appropriations, condemnation, all private property and rights-of-way incidental or necessary to the acquisition, ownership, control, development, operation of any utility in the state. The legislature is empowered to carry such bidding into effect."

That is the minority amendment.

MS. JONES: Is there a second for the Corn amendment?

(No response.)

MS. JONES: Hearing none, it fails for lack of a second.

Delegate Oulahan?

MR. OULAHAN: Madame Chairperson, I will be brief. I move to strike Section 4.

MS. JONES: Is there a second for the Oulahan amendment?

(Whereupon, the motion was duly seconded.)

MS. JONES: It has been properly moved and seconded.

MR. OULAHAN: Madame Chairperson, the reason for striking here is essentially the same as the other motions I have made. I do not believe that the state should be in competition with private business.

Secondly, I don't think that we can be persuaded that state public utilities can produce a product more cheaply than can private public utilities. A very good example is the operation of our Water Department. Other municipalities have private water departments, such as Alexandria. Ours is the worst-run utility in the District of Columbia.

I therefore move that this section be deleted.

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MS. JONES: Delegate Cooper?

MR. COOPER: I would like to speak in favor of the amendment to strike the section for several reasons. Number one, I think that this section is consistent with a pattern that we have been seeing throughout this entire article and the preceding articles and articles to come. I think it is an extremely radical provision. Not only that, but I think that we heard an earlier argument, based on Hope versus Bloomfield, that set a standard of non-confiscation, and all of a sudden, we see an absolute reversal of that standard, which empowers the legislature to confiscate land by way of purchase or condemnation, which also provides a justification for eminent domain to meet the main test. They can say easily that condemnation of the land is just compensation for taking the land. That gives no teeth to eminent domain. It gives no teeth to the previous article on utilities and energy, and it just continues a well-established, well-thought-out, well-planned pattern that is very apparent here, and I think we should not let the curtain fall on it. We are doing good thus far in striking the previous section, and I think we should do the same and strike this section.

MS. JONES: Delegate Rothschild?

MR. ROTHSCHILD: I think for us to make a decision

here on whether or not the state owns the utilities or a private company owns the utilities is not the question. What my preference is is not relevant. But what is relevant is, if we do not have a section like this in the constitution, do we now and forever rule out the possibility of the state owning the utilities, if such should be desirable. And if that is for now and forever ruled out by not having that in the constitution, I would be against not having it, because I would like that option to be there.

But I would like to direct a question to General Counsel to understand whether or not, if the state at some point wanted to participate in owning or own the utilities, do we have to have something like this in the constitution? Are problems created by not having it there?

MR. THOMAS: I would just refer all of you to the report on page 3. I think that language is too strong as it stands right now, and even with the amendment of the word "appropriation", I believe it still may pose certain constitutional problems. But I did recommend certain language that would achieve the same goal that you want and hopefully, what the Committee wanted, by language from the Michigan constitution that may serve the various purposes that want

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to be met.

MR. ROTHSCHILD: Thank you. I am sorry, I haven't read the report.

MS. JONES: Delegate Croft?

MR. CROFT: I'd like to defer to the next speaker.

MS. JONES: Delegate Bruning.

MR. BRUNING: I will disagree with the previous speakers. I don't have problems with this. This uses the word, "may" -- not "must" or "shall", but "may". And this is gives the state the option of essentially going into the public utilities business. I am not convinced by any means that this is a notion of public utilities, publicly held utilities, cooperatively-owned utilities, is unique, is different, is un-American, or any other number of things which I think that Delegate Cooper claims it might be.

I am not convinced the history of private utility ownership in this country is one that has been so respective of people's best interests, particularly something as essential as the provision of energy to the citizens of the state, that it cannot be improved upon.

I very strongly support leaving open the possibility of public ownership. I am not convinced that will be a mess, a failure, and I believe very strongly that it could indeed

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be very beneficial for the people of the state, particularly when the major incentives for profit-making have been reduced and it gets down to the very serious business of producing energy cheaply, quickly and fairly to all the citizens of the state.

Thank you.

MS. JONES: Delegate Jordan?

MR. JORDAN: Madame Chairperson, I am disturbed when I hear these issues raised about the way this article is going to force the state into competition with private industry.

Now, General Counsel says in his report that there are constitutional concerns, but he doesn't go on to elaborate. I don't know how you make a decision in absence of some clear direction. He also said it was too strong.

My problem is, I don't think there is anything sacred about private ownership of businesses when it comes to the need for serving people. I say that from this perspective. I remember a few years ago, when O. Roy Chalk came into this city and destroyed the bus company, and the government has since taken over and provided us with a better system. I am reminded that the same situation existed for Amtrak when we had private ownership of the railroad. Now, we go on and on

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and on, where I think it is wrong for us to convey the idea that private industry operates more efficiently and serves people better than the government. It is a lie. Now, we can look at utilities and at transportation, but we could look at other areas, such as Lockheed, we could look at Chrysler, and now today, we see we have Braniff International.

The point I'm trying to make is that there is a philosophical and ideological perspective that is being put forth here, and maybe we have to come to grips with that this evening. But I don't think that there has been any argument that persuades me from not doing it here, because I have not heard anyone say that it is clearly unconstitutional, and it represents an irreconcilable conflict between provisions of the Constitution of the United States. I have only heard some very vague, ideological reasons which have to do with the sanctity of private ownership of businesses. I don't think that we need to be swayed by that.

I raised last night to present a proposition on one other portion of this section. I say it is time that we start dealing with the question of people before property. Now, our laws have been structured in this country to provide advantages to those who have property, and have provided tremendous benefits for the property itself. I am reminded of

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the case here in Washington, D.C. of our Court of Appeals, which ruled that the government is under no obligation to provide service to individuals in respect to police protection or fire protection. Maybe that is why we have greater responses of the police when a bank is robbed than we do in our city when there is someone raped.

So I am just suggesting that there is a fundamental question that needs to be bridged at this point. That fundamental question deals with the issue of property rights versus rights of people. Now, the delegates have to face that issue, and that is a very obscure argument that has to do with me concerning myself with whether a man or a corporation wants to make a profit. I am saying many times, those profits are made at the expense of and on the backs of workers and people, and I think it is time that we need to come to grips with that issue here, in this Constitutional Convention.

So I am opposed to striking this article because I have not seen any information or evidence or testimony or anything else introduced at this point that compels me to make another decision, and my appeal right now is in part emotional but it has also given some examples of where I felt that private industry has not served us well. I have also given examples where I felt that those who provide public services

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have not dealt well. And I just wish that the proponents of this amendment would do the same, and stop trying to get us to take these positions based on feelings one way or another, and give us some information that we can use to make some objective decisions.

Thank you very much.

MS. JONES: Delegate Love?

MR. LOVE: Madame Chair, I move to make a substitute amendment to the Oulahan proposal to strike. I am essentially adopting the suggestion of our counsel. I think it achieves the same thing that the Committee does, but maybe a little more quietly.

It would read as follows: "The state may acquire, own or operate public service facilities or supply water, light, heat, power, communication, sewage disposal, and transportation to the residents."

MS. JONES: Is there a second to the substitute?

(Whereupon, the motion was duly seconded.)

MR. B. MOORE: Would the Delegate please repeat it?

MR. LOVE: The bulk of this is on page 3 of our Legal Counsel's memo, with just a few changes, and I will just read it. I omit everything on the first line and just say, "The state", and then the second line says, "may acquire,

own, or operate public service facilities for supplying water, light, heat, power" -- and I add the word "communications", because at some point, we may be talking about telephone or television -- "sewage disposal, and transportation to the residents."

I think this does exactly the same thing the Committee does. The language is not quite as strong, but I think it is adequate for serving the purpose of allowing the state to take over any of these if it so wished.

MS. JONES: Delegate Croft?

MR. CROFT: Yes, I'm not whether I have the right to do this --

MS. JONES: Delegate Croft, you should speak for the Committee.

MR. CROFT: Okay. The only problem I have with the substitute amendment is the listing of the services. I think that it is far safer to use the simple words, "utility services", because we do not know what in the future will be considered utility services, so I would suggest if that change be made in the substitute, the Committee would have no problems with it. In other words, we are concerned with the laundry listing of things.

MS. JONES: Do you accept that?

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MR. LOVE: Well, the problem is some of these are not utilities. Transportation is not a utility.

MR. CROFT: Yes, it is.

MR. LOVE: Communications is a utility?

MR. CROFT: Yes, everything listed is.

MR. LOVE: Then, I'll accept that.

MS. JONES: The maker of the motion and the person giving the language, would you give the proper language to the Secretary, please?

While the maker of the motion and Delegate Croft are getting the wording together for the Secretary, will the delegates withhold their questions for one minute?

(Pause.)

MR. LOVE: Okay. I'm going to read this. It is somewhat brief, and you might want to write it exactly as is.

It says: "The state may acquire, own, or operate public utilities and provide their services to its residents." We will change the title to "Public Utilities", period.

MR. KAMENY: Is that a substitute for the second sentence, or the first sentence?

MR. LOVE: That is a substitute for everything.

MR. KAMENY: Including the first sentence?

MR. LOVE: Including the first sentence.

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MR. B. MOORE: That is a substitute for the entire Section 4?

MS. JONES: It is a substitute for the amendment to strike.

MR. LOVE: Yes, it is a substitute for the amendment to strike.

(Whereupon, the motion was duly seconded.)

MS. JONES: It has been properly moved and seconded to substitute the Love language as given to us by the General Counsel for the amendment to strike.

Delegate Marcus?

MR. MARCUS: Chairperson Crott has already spoken for me. Thank you.

MS. JONES: Delegate Long?

MR. LONG: The reason that this language is in the Michigan Constitution -- that is, the original language which we now have before us apiece -- is that states have an inherent right to do the things which we are proposing to put in the constitution. There is no question about the right to do that.

The reason this original language here was in the Michigan constitution is that municipalities, being creatures of the states, do not have that inherent right. So, in the

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Michigan constitution, in order to allow local jurisdictions to own and operate utilities, they had to be so empowered by the constitution. It had to be given to them as a constitutional right.

This language that is before us is, I think, now acceptable to me. It is innocuous. It does nothing in that it says you have the right that you already have -- which is fine with me -- I don't see any reason to put it in here, but I'm not going to object to it.

MS. JONES: Delegate Eichorn?

MS. EICHORN: I would just support Section 4 as drafted if it ended after the word (inaudible). My concern was about the implications in the remaining language, and I now have a concern with the substitute and would like to know if it rules out the possibility of a cooperative of users. Can that be legislated? I would like to leave that possibility.

Could someone answer that? Can a cooperative be permitted by legislation --

MS. JONES: Delegate Love or Delegate Croft, can you answer the question?

MR. CROFT: The problem with the question you raise is that that may fall smack in conflict with the eminent domain

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provision that we have passed that essentially says that when you take it from one private to another private use for profit, and you can't show a profit wouldn't be made, that you have to do it when there is no other alternative, and there would be another alternative if the public can use it. So the substitute may indeed cancel out the possibility of cooperative consumers.

MS. EICHORN: Of taking property with the purpose of a cooperative -- is that what you are saying?

MR. CROFT: Yes. In other words, the way the substitute is written, it may cancel out the possibility of being able to transfer it to a cooperative because that is private, and there would be profit made, and the problem we would run into is that we passed an eminent domain section that essentially argues that if there is some other way besides transferring it that way, you can't do it.

MS. EICHORN: But you are raising anotherissue. You are saying that as originally drafted, a utility could be (inaudible) from the private sector and given to a cooperative?

MR. CROFT: No. What we were saying before is that in the way it was first written, the state could either purchase or condemn a utility, its properties, and then the state could either own or operate itself, or the state could transfer the ownership and operation to a consumer evolved

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rate base. Now, the language authorizes that. The problem I have, just answering your question, there may be a possibility that the present language runs into the way that we have drafted the eminent domain section of our constitution.

MS. EICHORN: It seems to me that the state could contract out the delivery of the utility services to a cooperative, the same way that other services could contract it out. But I wonder if there is any legal advice to the contrary. If not, I would like the record to reflect that there is a possibility.

MS. JONES: Delegate Schrag?

MR. SCHRAG: Pass.

MS. JONES: Delegate Kameny?

MR. KAMENY: Yes, I would like to ask the maker of the motion how this motion differs, except as a matter of pure style, from what is in the Committee language here. You say it in a totally different way, but unless I am missing something -- and I may well be, and that's why my question -- I see absolutely no difference in content at all.

MR. LOVE: Neither do I.

MR. KAMENY: Then, why are you making it?

MR. LOVE: Because I think the wording is a little less harsh.

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MR. KAMENY: I have a second question, if I may.

MS. JONES: Yes, go ahead.

MR. KAMENY: That is, I am a little concerned about -- and I asked you this question informally when you were making the motion -- about your intention to delete the first sentence, which seems to provide a kind of a rationale, establishes a rationale that remains in for doing that, which I think may be a necessity of some importance or value, and I would like to know your reason for eliminating the first sentence rather than substituting for the second.

MR. LOVE: My assumption was that it wasn't really necessary. You could always put it as an amendment to mine, if it passes.

MR. KAMENY: Thank you.

MS. JONES: Delegate Mason?

MR. MASON: I rise in support of both the original version and the amendment offered by Delegate Love. I would like to ask through the Chair the opinion of Counsel on whether this authorizes the state to buy those parts of a property which are not within the state but which are necessary to provide the service within the state. In other words, the major sources of water, which we have all had to deal with, the major sources of electric power, the major sources of gas,

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are outside the state. I am sure that our utilities only own these properties at various places outside the state, and to buy that part of the property which is in the District would leave us in a very awkward situation of not owning the sources of what we are distributing. I just want to be sure that we are not limited to that part of the property that is within the state.

MR. THOMAS: As far as if the state decides to purchase utilities, are they limited, to only buying what is necessary within the District.

MR. MASON: Right. I just want to be sure there is no limitation to buying, say, a power station on the Virginia side of the river, or somewhere in Maryland, or wherever it might be necessary.

MS. JONES: Delegate Jackson?

MR. JACKSON: Madame Chairman, is it in order that I make a subsitute? Can I do that? May I offer an amendment to the substitute.

MR. JONES: There is already a substitute on the floor. Counsel was dealing with the question from Delegate Mason. Go ahead.

MR. THOMAS: I don't see anything in this phrase that limits a state from only purchasing things within the

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state, in order to operate in the state.

MR. MASON: I realize there is nothing in this phrase. I just wondered if it was necessary to say affirmatively "including that part of the property located outside the state", to be sure that that power was included.

MR. THOMAS: I don't see its absolute necessity, but I wouldn't see anything wrong with it, either.

MR. JACKSON: Madame Chairperson?

MS. JONES: Mr. Jackson?

MR. JACKSON: Madame Chairperson, I would like to amend the substitute with one line, where we would say preceding it, "Utilities are works of public necessity and importance which the state may provide."

MS. JONES: Read that again, Delegate Jackson.

MR. JACKSON: The first line of the original motion, I would like to insert, at the beginning, "Utilities are works of public necessity and importance which the state may provide."

MR. KAMENY: You are adding that preceding his?

MR. JACKSON: That's right. Briefly, I would say that the only reason I do this is because this sets the rationale and the precedent and the importance of utilities in the public interest. It is that simple.

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MS. JONES: Is there a second to the Jackson amendment?

(Whereupon, the motion was duly seconded.)

MS. JONES: The Secretary has asked if you would please write that out for him?

MR. JACKSON: Madame Chair, it is right in Section 4.

MR. LOVE: Madame Chair, if it is in order, I would accept that.

MS. JONES: Yes, it is in order.

Are we ready to cut off debate?

Delegate Cooper, would you speak to the amendment?

MR. COOPER: Yes, I would like to speak against the Jackson amendment, simply because it has no weight. Everybody knows that utilities are works of public necessity. That goes without saying. We know the importance. And by being silent on it, it is obvious that the state may or may not provide it. That is just unnecessary verbage to continually weight down this whole section.

MS. JONES: Delegate Barnes?

MR. BARNES: I move the previous question.

(Whereupon, the motion was duly seconded.)

MS. JONES: The question has been moved and seconded. All those in favor will show their hands.

We are calling the question; we have cut off debate.

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(A show of hands.)

MR. COOPER: Eighteen.

MS. JONES: Those opposed?

MR. KAMENY: Madame Chairman, parliamentary inquiry.

MS. JONES: Delegate Kameny?

MR. KAMENY: If we should vote this down, what are we left with now? I want to know what the sequence is.

MS. JONES: We will be back to the motion to strike. We will be back to the Oulahan motion to strike.

MR. KAMENY: And then what?

MS. JONES: If we vote down the Love substitute, we will be back to the Oulahan motion to strike.

MR. KAMENY: And if that fails, we are back to the Committee's language?

MS. JONES: We will be back to the Committee's language.

MR. KAMENY: Thank you very much.

Delegate Jackson?

MR. JACKSON: The Committee has accepted the language of Delegate Love.

MS. JONES: No, no. The motion that is on the floor at this point is the language of Delegate Love, as amended by him. If that fails -- the question is, if that

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fails, what will we be back to. If that fails, we will be back to the Oulahan amendment to strike. If the Oulahan amendment to strike fails, then we will be back to the language of the Committee.

The question has been called. All those in favor of the substitute motion, would you signify by showing your hands?

(A show of hands.)

MR. COOPER: Twenty-three.

MS. JONES: Those opposed?

(A show of hands.)

MR. COOPER: Three.

MS. JONES: Those abstaining.

(A show of hands.)

MR. COOPER: One.

MS. JONES: The motion passes.

Delegate Croft?

MR. CROFT: Madame Chair, I move the adoption of what is now Section 3, as amended.

(Whereupon, the motion was duly seconded.)

MS. JONES: It has been moved and seconded --

MR. CROFT: It is the old Section 4.

MS. JONES: All those in favor of Section 4 as

amended, please show your hands; section 4 as amended.

(A show of hands.)

MR. COOPER: Twenty-two.

MS. JONES: Those opposed?

(A show of hands.)

MR. COOPER: Four.

MS. JONES: Are there any abstentions?

(No response.)

MS. JONES: The section is adopted.

Delegate Croft?

MR. CROFT: Madame Chair, I move the adoption of the article entitled, "Transportation, Utilities and Energy," as it has been amended.

(Whereupon, the motion was duly seconded.)

MS. JONES: It has been moved and seconded to adopt the article, "Transportation, Utilities and Energy", as amended.

Are there any speakers?

Delegate Cooper?

MR. COOPER: Fellow delegates, I urge you to vote against this motion.

MS. JONES: Delegate Long?

MR. LONG: For the usual reasons, that we are

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busily adding unnecessary statements in the constitution to grant this state powers which it has inherently, under the U.S. Constitution, I urge you to vote down the section, and keep the constitution cleaner than it is now.

MS. JONES: Delegate Croft, would you like to speak?

MR. CROFT: Madame Chairman, I think other speakers have spoken much more eloquently than I have on this issue.

MS. JONES: Are there any other speakers?

Delegate Barnes?

MR. BARNES: I call the question.

MS. JONES: The question has been called.

(Whereupon, the motion was duly seconded.)

MS. JONES: All those in favor of calling the question, show their hands.

(A show of hands.)

MR. COOPER: Twenty-three.

MS. JONES: Those opposed?

(No response.)

MS. JONES: Those abstaining?

(No response.)

MS. JONES: This is to adopt the article as amended. Those in favor of adopting the article as amended will show your hands.

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(A show of hands.)

MR. COOPER: Nineteen.

MS. JONES: Those opposed?

(A show of hands.)

MR. COOPER: Four.

MS. JONES: Abstentions?

(A show of hands.)

MR. COOPER: One.

MS. JONES: The article is adopted.

Delegate Croft?

MR. CROFT: Madame Chairman, the next article is one that will take a great deal of debate, and I would like to respectfully request a ten-minute recess before we proceed.

MS. JONES: It is now ten minutes to two. We will recess and come back at two, so don't go far.

(Short recess.)

MS. JONES: Will the delegates please take their seats? We will come back to order.

Delegate Croft?

MR. CROFT: Madame Chair, I move the adoption of Section 1 of the Labor Relations Article, entitled "Collective Bargaining."

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MS. JONES: It has been moved and seconded.

MR. CROFT: There is a minority report.

MR. COOPER: The minority report is from Delegate Corn. It would be on page 10, Section 1, line 1, to insert the following language, "except for police personnel, fire personnel, and health care personnel", and delete from line 3 on down, after the word, "choosing".

MS. JONES: Is there a second for the Corn amendment?

(Whereupon, the motion was duly seconded.)

MS. JONES: You may speak to the Corn amendment.

Delegate Oulahan?

MR. OULAHAN: I move a substitute --

MR. JACKSON: Madame Chairman, point of order. As you know, I put forward an amendment at 8:30 yesterday morning. I should have the right to the floor first. I asked for that right two days ago, and you put my name on an amendment for it yesterday.

MS. JONES: Delegate Jackson, you will have the right to the floor first when we have the amendment. This is the minority report.

MR. JACKSON: This is the minority report.

MS. JONES: Oh, well, I didn't know that. I thought you wanted your amendment to come to the floor.

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MR. JACKSON: Yes, ma'am, but when the minority report got to the floor, then I would like to amend that.

MS. JONES: Oh, I see. Delegate Jackson did ask for that privilege.

Delegate Jackson.

MR. JACKSON: Yes. I would like to amend that to amend that to strike out every word that comes after the word, "abridge".

MS. JONES: The motion is to strike. Is this to strike the Corn amendment?

MR. JACKSON: The Corn amendment has certain additions to this. I move to strike everything from the Corn amendment, which then goes back to the original amendment, after the word, "abridge".

My amendment would then read, "First, it is the right of public employees to bargain collectively through representatives of their own choosing. The right to strike is a fundamental and inherent part of the right to organize and bargain collectively."

MS. JONES: Delegate Jackson, I believe that you have to strike the Corn amendment first.

MR. JACKSON: All right.

MS. JONES: Is there a second to Delegate Jackson's

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amendment.

MS. JONES: Delegate Jackson has moved an amendment to strike the Corn amendment.

(Whereupon, the motion was duly seconded.)

MS. JONES: There is a second to the Jackson amendment.

Yes, Delegate Cooper?

MR. COOPER: I'd like to know if the Jackson amendment would be in order, inasmuch as the Corn amendment strikes everything from line 3, with the sentence beginning with "The right to strike", and the Jackson amendment doesn't apply to that.

MS. JONES: The Jackson amendment is in order. The Jackson amendment is to strike the Corn amendment. We had an amendment of the same sort earlier today that was positively in order, and it is positively in order, Mr. Cooper. Delegate Jackson has to speak to the Corn amendment, which is on the floor, and he has moved to strike the Corn amendment, and there is a second.

MR. JACKSON: I want to --

MS. JONES: Delegate Jackson, as I said before, you must speak to the Corn amendment first.

MR. JACKSON: You missed my point. The Corn

amendment went to line 3, correct, to the word, "choosing".

MS. JONES: Yes.

MR. JACKSON: I would like to amend that, Madame Chairman, to add the words, "The right to strike is a fundamental and inherent part," and go down to "abridge" and strike everything that Ms. Corn has put forward.

MR. CROFT: Point of information, Madame Chairman.

MS. JONES: Yes.

MR. CROFT: I'm trying to figure out whether a substitute for the Corn amendment is being offered, or whether an amendment to the Corn amendment is being offered. If an amendment to the amendment is being offered, it is probably out of order.

MS. JONES: No, it was my understanding that Delegate Jackson was moving to strike the Corn amendment.

MR. JACKSON: Well, let me ask a question, Madame Chairman. Would it be in order, then, if I offered a substitute for the Corn amendment?

MS. JONES: Yes, you can move a substitute for Ms. Corn's amendment.

MR. JACKSON: Okay, the substitute would be -- I won't read the whole thing -- it would start with the word, "persons" and end with the word, "abridge".

MR. KAMENY: And strike everything thereafter?

MR. JACKSON: Yes, sir.

MS. JONES: Is there a second?

(Whereupon, the motion was duly seconded.)

MR. JACKSON: I will speak on this when the Chair recognizes me.

MS. JONES: Delegate Jackson.

MR. JACKSON: Just a few words. This is where all the sheep, black and white, rich and poor, the ones who eat green grass or blue grass, have a chance to come back to the flock.

Madame Chair, a fundamental right of any person in this country who works and toils is the right to own his labor. For those of us like me, whose forefathers were slaves, who were brought here with nothing but blood and sweat dripping from our bodies, we had the right to work, and from that point on, Madame Chair, my people, black people and working people, have been the base of this country, and we have been so far denied. As black people, we have been only voting so long, and that has been one important point. But the most important in this is the right for us to do with our labor as we so choose.

Mr. Croft said yesterday that the New York constitution says labor is not a commodity. Well, in fact, Madame Chairman, labor is a commodity, bought and sold in the market every day. For those who are lawyers and whatnot, it goes to the highest bidder; for those who are like me and have nothing, in many cases it does to the highest, in some cases it goes to the lowest. But it is all we have. It is all we have to bargain with, it is all we have to make our living with.

Madame Chairman, many people say it is not in the U.S. Constitution. But I looked back at the U.S. Constitution. The U.S. Constitution was passed by 110,000 white males with property; not a single woman voted on it, not a single black person -- which means that one out of six people in this country who had property passed this constitution. That is why I understand why it is not in there, and I think that it would have been, but that is not the question. Many would say the right to strike is not in many other constitutions. Well, who cares about what is in other constitutions? We are dealing with the people of D.C., 67 percent of whom are public workers, and the majority of whom are workers -- and I might add, the majority are poor and black like me. And if there is anything in society that I know I will do, it is stay poor, stay black, work my tail off, pay taxes and die. Maybe

some people can move out of their houses, but me, I have no choice, and my working brothers and sisters have no choice at all.

Madame Chairman, I will go farther. If we remember the great prince of peace, the shining star of our nation, Martin Luther King, he gave his life fighting for the right of public workers to strike. That is what he gave his life for. Some may have disagreed with him on certain points, but if a man -- and I did say it -- if a man does not find something he is willing to die for, then he is not worth living. That was something to die for. My labor is something to die for, and I will put this on the line right now.

And let me state this. I have not wasted a minute of time of anybody in this Convention. I have not gotten on the floor and used dilatory tactics. I have not argued over simple points. I have not wasted a penny of this Convention's money. I have not begged like a dog for a bone. I have not begged anybody for a vote or traded one thing for another.

But on this, I ask a roll call vote on every, single thing, Madame Chairman, and if you deem it unnecessary, I will pay for it myself. But on this point, I want a public record so that everybody who calls himself "a friend of working people", we will see.

(Applause.)

MR. JACKSON: I hope the "Washington Post" puts it in every paper, and if they don't, I will tell the vote myself all over this city. People can see it as they want to see it.

Madame Chair, I have spoken to labor leaders in this city, including the head of the Central Labor Council, in my capacity as a Delegate, as a former worker who has shovelled manure in the corn fields of Alabama, so I know it, and we will count the heads.

Madame Chair, I speak for the right of my labor and the labor of all people in this City, and it should not be abridged by anyone. For that reason, Madame Chair, I would strike this, and say again, when this argument about public safety comes up, it is much dangerous for a worker to work under horrendous labor conditions. I would rather have a policeman walking a picket line than tired, who has not been given the right to fire on someone who was shooting me in the back, because he is so tired. That argument must go out ofthe range of reason.

Madame Chair, this is a fundamental right of all people, a fundamental law of the land. I move my motion to be adopted. There is no other way. Thank you.

(Whereupon, the motion was duly seconded.)

MS. JONES: Delegate Oulahan -- just a minute, Delegate Jackson, at the proper time, I will give you the right to call for a roll call vote.

MR. JACKSON: Thank you.

MS. JONES: Delegate Oulahan?

MR. OULAHAN: I will agree that we should have a roll call vote on this, Madame Chairperson because, as my friend, Delegate Jackson, has said, this is a very important issue.

I have to dissent, however, from his recitation of past history and his description of the economic system. I don't think they have any relevance whatsoever to the issue, which is solely the right to vote of public employees. There is no fundamental right for public employees to strike. It is not in the Constitution. It has never been engraved anywhere in our law unless there was a specific statutory or constitutional provision to that effect.

I might also add that I don't think it is relevant to say that certain people's services go to the highest bidder. That has nothing to do with the point. The point has to do with what kind of a government we have and whether the government serves the people. If you have the right to strike as a public person, our right to protection, to welfare, to services, to having our garbage picked up, having our trash

picked up, having traffic taken care of, is destroyed. And under those circumstances, I urge that this Convention reject the amendment.

But let me say something else, Madame Chairperson. This is one of the crucial points of this Convention. If the right to strike by public employees, including policemen and other public service workers is inserted in this Constitution, it is my humble opinion the constitution will be rejected by the vast majority of the people in this City.

MS. JONES: Delegate Long?

MR. LONG: As was expected, we have a classical debate on a thorny question. We have the most eloquent defense of the right to strike; we have the arguments against putting that into the constitution. This is exactly what I expected.

By treating the subject at all, we will provide a forum for the right to work performance against the right to strike performance. The question is, what are we doing here. Are we deciding the right to strike or right to work, or are we trying to write a constitution so that the fundamental rights of the people of the District of Columbia are at last realized and they become part of this nation? Are we here to try to appeal to every social problem which we can

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think of? There are other ways to attack those problems. First, we need to gain independence, the right to deal with our own affairs, and then we can move on to the questions of social policy. By loading down this constitution, we provide every contending force that wishes to have a relatively cheap campaign to question its side of an argument, a forum to do so, and in the ensuing carnage, the constitution, the fundamental democratic rights of the people of the District of Columbia will go down.

MS. JONES: Delegate Barnes?

MR. BARNES: I sympathize with the point raised by Delegate Jackson. However, I can't vote for the measure for one very simple reason. We had testimony from a professional labor lawyer who indicated that --

MR. KAMENY: Could you use the microphone, please?

MR. BARNES: -- yes, well, that is another point. I am opposed to the Jackson substitute because I am concerned about those people who depend on certain critical government services. I strongly agree that government employees for the most part should have the right to strike, and I think in most cases, in an almost overwhelming number of cases, that is justified. I think that is something that the government has not caught up with. It has not caught up with reality.

However, I am concerned about those people who depend on certain critical police protection, certain critical fire protection, and that is the reason for lines 5 and 9 of the original Committee proposal, to act as a safeguard for that, not a safeguard to certain non-essential services. This is how it was expressed to the Committee by a professional labor lawyer, Mr. Jordan.

MS. JONES: Delegate Nahikian?

MS. NAHIKIAN: Madame Chair, several delegates have already spoken to the fact that perhaps this section more than any other section represents a critical point of decision-making as to who we are writing a constitution for.

Delegate Long has spoken against the Jackson amendment and has in fact introduced a proposal against this entire title, including the section on labor relations. And his argument is a specious one. He says, very simply, that we should be about the right of statehood, and we should not put anything in the constitution that in fact endangers or causes controversy around statehood.

I should have to repeat one of the comments I made a few nights ago, and that is that if we cannot write a constitution that will give us statehood that makes the lives of the vast majority of the vast majority of the people in this

City any better, then we have no business writing a constitution and seeking statehood.

(Applause.)

MS. NANIKIAN: I think that it is important that people understand the history involved in the right to strike. My father was attacked by dogs and hosed down by water hoses in three-degree weather, walking a picket line. In the State of North Carolina where that happened to my father, it also happened to me when I worked in a J.P. Stevens mill, trying to pay college tuition. And in the North Carolina state constitution, there is a provision that stands against the unions, and in a number of other states including our neighboring state of Virginia.

I think that if the power brokers of this country can put provisions in constitutions that speak against the rights of workers, then it is time for us to stand up and be strong and to put it in our constitution that we support, that we are, and that we believe in workers having some basic rights in this country.

Thank you.

MS. JONES: Delegate Cooper? Delegate Mason, I have you listed.

MR. COOPER: I'd like to speak against the Jackson

amendment mainly because I am in favor of this whole section not appearing at all. As you may know, this is an extremely controversial issue. That controversy certainly did not escape us in Committee.

However, I think that you must know that there are some grave inconsistencies in the Committee's report with regard to this issue. As I pointed out earlier, there is a terrible pattern at play here that evidences itself in the Committee report. This eight and one-half line section warrants three and one-half pages of rationale in the Committee's report. What gives it such precedence, I don't know. It is a hot issue, but other issues are equally as hot. What this report fails to detail is the fact that it does carry Mr. Jordan's testimony. Mr. Jordan was the only witness who testified before us in any roundtable, the only witness who testified before us in any Committee hearing, who even expressed the need to place the right to strike in a constitution.

Fellow delegates, there is no precedence for right to strike in these United States. None of the existing 50 states have an expressed right to strike in their constitutions. I don't know how the Committee arrived at its rationale. It certainly could not be through studying other state

constitutions or the model constitution.

Secondly, on another point, I think that most of this language again is weighty and unnecessary. If you will read the Committee report, sentence one clearly states -- sentence one is essentially the language from the National Labor Relations Act. It is not fit for constitutional treatment. It is given here in the report as being drawn from legislation. We don't want to legislate through this constitution. That has been expressed, yet that has still been done, and it has been fortified and supported in this Committee's report. There is a grave, grave inconsistency there.

I think thirdly that if we afford the right to strike to public employees that then we are in fact stepping on the rights of the many great citizens of the new state. We are denying them their right to protection, and therefore, denying their probable right to liberty and property. If the police or firemen go on strike, then who is to protect the citizens of the state and protect their rights? Is the right to strike greater than the other enumerated rights?

There is a red flag in here, also. How can the Congress possibly support the right to strike if the seat of government itself, where they must live, where they must legislate, will not be protected, if the policy go on strike,

if the firemen go on strike? How do you think the United States Congressmen can possibly support the possible demise of their own life, liberty, property and family? I think this is a horrendous article that is bound to cause issue among the voters of the state. I think it is going to cause issue in Congress and will be resoundly rejected. So I therefor urge that we reject this now, in no uncertain terms, in this constitutional convention, and reject it as unceremoniously as possible, such that we can afford ourselves statehood, because the ultimate goal is the actual issue at stake.

MS. JONES: Delegate Bruning?

MR. BRUNING: When we came to this Convention I think many of us hoped for a very simple, straightforward document, but I always argued that there would be certain points that each delegate would determine according to their own experiences and biases, and there is a point where you may compromise. Whether or not it was seen in 50 other state constitutions, whether or not there is a precedent for it, whether or not it makes sense, whether or not it would have a great effect on Congress or somebody else down the line, there are certain issues that there can be essentially no retreat on.

I really appreciate the effort of the Committee to

try to balance a very tough situation, which is one of the things I believe, probably from the start of that Committee, where we would probably vote for a blanket right to strike, and would try to balance the concerns expressed by Delegate Cooper regarding public safety and health and the Congressional reaction.

I appreciate that effort. I nevertheless have to go to the basic issue that the right to strike by anyone to work is a basic right, is an unabridgeable right. We have argued that government employees are somehow different than the rest because -- one of the arguments of those themes was because they had great job security, could never get laid off, and so on. We found out, with the rate in cutbacks, that that is not true; they are subject to layoff, they are subject to reduced hours, and that there is no guaranteed protection. There is supposed to be a quid pro quo: you work for the government, and essentially, you are protected. That is not the case.

I think the right to strike by public employees including firemen and policemen is a right that those people don't treat cavalierly, capriciously, or arbitrarily, because those people in large measure live in the city, work in the city, have relationships with people in the city.

They will not recklessly, heedlessly go to a strike unless they are pinned to a wall.

We have heard that Congress -- and indeed, the fact that they have that right may very well facilitate the settlement of labor negotiation disagreements. Finally, we have heard that Congress will not vote for this if they are putting themselves in danger. Let us not kid ourselves. Congress has the power, the President has the power, to nationalize the National Guard on a moment. They can fly in airborne troops, and they have all sorts of protective powers and the use of all the courts available to the Federal government. So let us not kid ourselves that Washington will burn down around their necks, and they will sit there, helplessly. They have plenty of safeguards.

MS. JONES: Delegate Kameny?

MR. KAMENY: I merely have a brief question for information from the Committee -- although my question is perhaps answered by implication in the report. Was there any testimony to this point from representatives or people who in any way were representatives in the interest of police departments, fire departments, public employees, in that general class, which is the area of controversy.

MR. CROFT: Yes, I would like to read on page 3 of

the Committee report. There was a list of the people who testified at the Committee report. There is Bruce Waxman, who represents now the Air Flight Attendants' Union. Bruce Waxman was the head of the public employee organization which preceded the PERB. Bruce Waxman testified for the right of public employees to strike.

Joy Groom, who is an expert on the question of comparable pay for comparable work, who directs that department at the NEA, testified in support of that.

Frank Gallow, Executive Director, ADA, testified in favor of that.

Dr. George Zacharia, President, UDC, FA, National Education Association, 3-1/2 million members strong, testified in favor of that.

And Bernie Demzcek, Political Director, AFGE, and also representing the Central Labor Council, testified in favor of that.

And also, Dan Jordan, who was for ten years the lawyer for the Postal Workers, testified in favor.

And furthermore, the Committee has received a letter from the Nurses' Association which also endorses the position.

MS. JONES: The first point of information that I

heard was from Delegate Harris. The second point of information will be from Jan Eichorn, and the third point of information from Talmadge Moore.

MS. HARRIS: I have a question to Delegate Croft. When you say these people were in favor of that, are you saying they were in favor of the right to strike and in favor also of putting it in the constitution?

MR. CROFT: Yes. What happened was Dan Jordan was asked a question about the political implications of an absolute strike versus one that was limited. He said he would go for the absolute, but he would also provide us language for the more limited version.

MS. HARRIS: I guess I am more or less concerned with how many people on this Committee agreed that it should be written in the constitution?

MR. CROFT: The people who testified on that issue -- because people testified on issues that they were interested in and concerned with -- everybody who testified on that issue before public hearings, and I have named the names, supported that being included in the constitution.

And in fact, in the report, you have the language which we thought was particularly eloquent, so we put it in here, offered by Dan Jordan. But the point I'm trying to

make is that everybody who came to public hearings and testified on that question endorsed that being in the constitution.

MS. JONES: Point of information by Delegate Eichorn.

MS. EICHORN: I am interested in knowing whether testifying for -- are you saying they testified for the Committee recommendation or for the substitute offered by Mr. Jackson? They are different. And I would assume that since the Committee came forth with this language that it was based upon the recommendations of those persons who testified, and if --

MR. CROFT: I would refer delegate Eichorn to the Committee report. The Committee report shows a change in the language. The first language that we presented to the people was the language in which we were trying to say absolute strike without taking it on whatever, and people have said that you have got to 'fess up, like you have got to say it, or you don't say it. The point is that people say, "You ought to say it if that's what you want," and we want it.

Now, the point is that Dan Jordan was asked the question about some other kind of language, and he offered

us two kinds of language -- language that gives an absolute strike, language that limits it. The Committee decided to go with the limited version. That's what happened. But the point I am trying to make is that people testified for the right to strike to be in the constitution.

MS. JONES: Delegate Talmadge Moore.

MR. T. MOORE: Could you explain to me what happens with the state militia? The state militia is the Governor's troops, and I was wondering what place they would play in this right to strike. Could you respond to that?

MS. JONES: Delegate Jackson, would you like to respond to his point of information?

MR. JACKSON: The right to strike has a certain meaning. The right to strike does not mean they want to go out and strike. It means they have the ability to exercise this certain right. That is all it means. That is simple.

The other thing, I don't know. I haven't written a section on the militia. It is common knowledge, though, that when the U.S. government and the Postal Service went on strike, the National Guard people did deliver mail. The people themselves are delivering mail.

So the right to strike does not say that the militia is called out. The militia can only be called out at

the will of the executive, as I understand what the provision will be here. The militia does not come out because a union says, "We want the right to strike."

MR. T. MOORE: My point was in the case of fire, floods, civil disturbances, and things of that nature, that the government has the right to call out the state militia to quell those disturbances. And I am wondering as to whether if we call the troops out, would they have the right to say, "I am not going out; I am on strike." That's what I wanted to know.

MR. JACKSON: I have not laid a word in there about troops. I might add, though, if there is a national emergency or a state emergency, I would allow these troops to go on strike; they would have the right to. I am not speaking about the national militia.

MS. JONES: We will go back to the list. The next person is Delegate Corn.

MS. CORN: I speak against the amendment that is on the floor now, and the reason is as follows. This section is the turning point, I believe, of whether or not you are going to get statehood. Now, you have a very clear choice --

MS. JONES: Delegate Corn, you are to speak to the motion that is on the floor.

MS. CORN: I am speaking to it. Would you please let me continue?

You have a choice here of putting your ego and your desires and your dreams and your aspirations into this document while being realistic and understanding exactly what Congress wants in exchange for giving you statehood. There was a "Washington Post" editorial ago several weeks ago, and in that editorial, it made very clear Congress' concern about the police and the fire and the health care personnel striking. That is their critical and pivotal turning point. They still remember the riots of 1968 and fully believe it could happen again.

If you want statehood, you are going to vote down this amendment and be practical, and give Congress what it wants. That is not just a Republican Congress; that is a bipartisan Congress, that wants to know that fire and police and health care personnel cannot strike.

MS. JONES: Delegate Hilda Mason?

MS. MASON: I thank you, Madame Chair.

Delegates of the Convention, someone raised the question about for whom are we writing the constitution. We are writing the constitution for us -- that means all of the people who live in this area, and we are the government. So

when people strike, we strike against ourselves. I helped organize the Washington Teachers' Union. On the Board of Education, I supported the Teachers' Union when they went on strike, because the Board and the Mayor had not allowed them due process. But that was a different issue.

I want to call attention to the Convention that on last night, we approved the section, "Health and the Environment", and one part of it said, "Each person has the right to a clean and healthful environment and the corresponding duties to refrain from environmental impairment, and each person may enforce," et cetera. You remember that. If people are striking against us when we are holding that we have a right to a clean environment, and they don't keep the environment clean, then I could point at an inconsistency.

Another issue that I want to raise is that the new state, as now the District of Columbia, would probably provide police and fire services to the Federal enclave, but I am sure the Federal government would look at very seriously if we are going to provide it, and if we are providing that people can strike.

Also, keep in mind that most of the police and fire personnel of the District of Columbia live outside of

the District of Columbia, and we do not have commuter taxing authority. And a lot of our business employees live outside, and they have tenure rights. That means that we are losing a lot of tax money that we are paying and can't get anything back into the Treasury, because we can't tax them. That means we are giving people who live outside, but who work for the District, we are giving them the right to strike, and we don't have the right to tax them at all.

The last point that I want to make -- and I admit that it is an emotional point -- if you had a relative who had a heart attack, or if you had a relative who had been shot, like I had a few weeks ago, if you had your house burn down with children in it, how would you feel if the police were on strike, and you couldn't do anything about it? If your relative were in a hospital, needing intensive care, and the nurses and doctors were on strike, how would you feel?

Now, I think what the Committee came up with is a good recommendation. It sort of accommodates both. So I urge you to think very seriously before you take your vote.

Thank you very much.

MS. JONES: Delegate Croft?

MR. CROFT: I yield to any other speaker.

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MS. JONES: The next person is Delegate Brian Moore.

MR. B. MOORE: This is more a procedural question. We are voting on the amendment to Section 1, "Collective Bargaining". If this is approved, would the question regarding the fundamental right to strike be up for discussion afterwards, or would this approval mean actually basically the approval of the entire section, as amended?

MS. JONES: It would be, yes, as amended.

MR. B. MOORE: Because a lot of people are addressing their comments to the right to strike as fundamental, when I think the purpose of Mr. Jackson's amendment was to eliminate the latter part of the section, where it says if the government interest is threatened, then you do not have a right to strike. I think that was his main purpose.

MS. JONES: Delegate Croft?

MR. CROFT: Delegate Jackson's substitute for the Corn amendment -- if his motion passes, then that will be an amendment to go into opposition against the main motion of the Committee. In other words, if this happens, it will clearly become the amendment, and we will then have to determine whether we want to take Delegate Jackson's language or the language adopted by the Committee.

MR. B. MOORE: So the question is not the fundamental

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right to strike on this amendment, then. The question is --

MR. CROFT: It is a substitute to the Delegate Corn's amendment to the language of the Committee.

MS. JONES: Delegate Eichorn?

MS. EICHORN: Would it be accurate to say that the question before us is to approve Delegate Jackson's recommendation that there is the right to strike across the board, as opposed to the Committee recommendation which says that there is the right to strike, with certain limitations in the public interest?

MS. JONES: Delegate Jackson's is a substitute motion for the Corn amendment that also amends the section. The substitute motion also strikes the last part of the section. His motion does two things. It is a substitute for the Corn amendment, and also, it strikes the last portion of the section.

Delegate Talmadge Moore?

MR. CROFT: Point of order.

MS.JONES: Delegate Croft.

MR. CROFT: If this substitute motion passes, it does not therefore mean that that replaces what we have proposed as our Committee. That still has to be argued and still has to be debated, because he is getting a substitute for an amendment, and he is not making a substitute for our

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Committee report. He has made a substitute for an amendment.

MR. COOPER: Point of clarification.

MS. JONES: Delegate Cooper?

MR. COOPER: The Corn amendment was to amend this report. Therefore, the substitute amendment would also, if it carries, amend this report.

MS. JONES: It is not a substitute amendment --

MR. COOPER: It is a substitute to an amendment, so it is a substitute amendment.

MS. JONES: Delegate Cooper, it is a substitute motion, and the substitute motion calls to strike the Corn amendment and to delete the last portion of the section.

MR. COOPER: Right, and if it carries, that is what would happen.

MS. JONES: Well, it is a substitute motion.

Delegate Kameny?

MR. KAMENY: I would like to ask the Chair -- and perhaps this will clarify it -- if the Chair can tell us what we wil have before us if this passes and what we will have before us if this fails, so we will know all our options are.

MS. JONES: If this passes, we will have the Jackson language as "Section 1, Collective Bargaining".

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MR. KAMENY: And that will finish this section?

MS. JONES: That will finish this section. Delegate Cooper, I will say this one more time. This is a substitute motion that I allow, and the motion is in two parts. The motion is to strike the Corn amendment and to delete the last portion of Section 1. If this happens, the Jackson language will be Section 1, and that is where we will be. Now, if you disagree with that, disagree with it with your vote.

MR. COOPER: I have a question.

MS. JONES: You may have your point of information as soon as Delegate Kameny finishes. Delegate Kameny is on a point of information. When we have satisfied that point of information, Delegate Cooper, then we will move to your point of information.

MR. KAMENY: Thank you. The other half of my question is, if this fails, then what will we have before us?

MS. JONES: We will have the Jackson language as Section 1.

MR. KAMENY: If that fails?

MS. JONES: If it fails, we will have the Corn amendment before us.. If the Jackson motion fails, we will have

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the Corn amendment before us.

MR. KAMENY: That means if we should vote down the Corn amendment, then we go back to the Committee's version?

MS. JONES: To the Committee's version.

MR. KAMENY: Thank you. Now I know what my options are.

MS. JONES: Delegate Cooper, your point of information?

MR. COOPER: My point of information comes in two forms, clarification and information. First of all, I'd like to point out that, because there is no confusion, if the Jackson amendment does carry, that it would amend this language, but further amendments would still be in order. But I don't think that has been made entirely clear.

MS. JONES: Delegate Cooper, we answered the questions as they were asked with the fullest information that we had. Now, if your point of information is to go on to questions, then we will proceed to go on to questions.

MR. COOPER: That's my point of information. If the Jackson amendment passes, would further amendments be in order?

MS. JONES: Yes, they would.

MR. COOPER: Okay. That wasn't made clear.

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MS. JONES: Before you call the question, there is another point of information, I hope, that is on the floor, and that is Delegate Robinson.

MR. ROBINSON: I don't have a point of information. I stand to move the previous question.

(Whereupon, the motion was duly seconded.)

MR. JACKSON: Madame Chair.

MS. JONES: The previous question has been called, and before I entertain that, as we have previously done, the maker of this motion will be allowed to talk last.

Delegate Jackson.

MR. JACKSON: Thank you, Madame Chairman. Just a few minor points. Some of us talk about the emotion involved in this, and I can understand that. But there is no greater emotionalism than that emotionalism that comes from those who toil every day.

I have another point. If we are concerned about the employees who live out of the City, then let (inaudible.) But the way to solve the problem is not to tell workers they can't strike. You do not solve one problem with another.

Second of all, Madame Chairman, it was made clear in the report that Mr. Jordan's statement -- Mr. Jordan who did come and did speak did not quite

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do what Mr. Barnes stated. Mr. Jordan said that first and fundamentally, public workers should have the right to strike; if that could not be guaranteed that way, then they use other language.

I might add a few other things, Madame Chair, because I think when people speak, you really get an idea of where things are coming from. You know, Mr. Cooper talks about legislation and all this. I would bet you -- but I won't do that -- but I would bet you that (inaudible) the workers in Poland who are on strike, but you don't want the same rights for workers here in this country. So many things cause many problems for me.

At the Mayoral Forum, where the leading candidates for Mayor spoke not long ago, all of them except one came out for the right of workers to strike. This is nothing new. It is nothing new at all. And I would say this. If workers are not given the right strike, it creates wildcats, it allows the police and other workers to do anything.

And I will also add that if you start using words like "unless" -- that was the first thing that started hurting people in this country -- "You may vote unless", "You may not vote unless you are rich", "You may not vote unless you are a man". You may not work in this industry unless you are

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a man". Unless, unless, unless. The next thing they were told is the teachers could not go on strike unless this, unless that. Then they will go to the postal workers. Then they will go to the secretaries. Then they will go to the machinists. And then they will come right back to the same people who thought of all these things.

So let's just make the point very clear. And I might add to all of those who think people in D.C. are going to go along with not having that right, then maybe they need to speak to labor. Maybe they should talk to people, because I talk to people very day, and the people I talk to think that workers should have their full rights.

Let us not say things we don't know. And the President of the Central Labor Council came out unconditionally on this and he represents the working people in this city. Congress does not.

Thank you.

MS. JONES: I will entertain the motion from Delegate Robinson to call for the question.

(Whereupon, the motion was duly seconded.)

MS. JONES: It has been moved and seconded to call the question.

MR. JACKSON: Roll call.

MS. JONES: Those in favor of calling the question will signify by showing their hands.

(A show of hands.)

MR. COOPER: Twenty-seven.

MS. JONES: Those opposed?

(A show of hands.)

MS. JONES: Those abstaining?

(A show of hands.)

MR. COOPER: Three.

MS. JONES: There has been a request for a roll call vote on the motion that is on the floor. There is a need for four people plus the requester of the roll call. I see eight hands. We will have a roll call vote.

Mr. Secretary?

(Whereupon, Delegate Cooper called the roll as follows:)

MR. COOPER: Delegate Holmes, No Response; Delegate Jackson, Yes; Delegate Johnson, No Response; Delegate Jones, Pass; Delegate Jordan, Yes; Delegate Kameny, Pass; Delegate Lockridge, Yes; Delegate Long, No; Delegate Love, No Response; Delegate Maguire, No; Delegate Marcus, Yes; Delegate Charles Mason, No; Delegate Hilda Mason, No; Delegate Brian Moore, Yes; Delegate Jerry Moore, No Response; Delegate Talmadge

Moore, No; Delegate Nahikian, Yes; Delegate Nixon, Pass; Delegate Oulahan, No; Delegate Paramore, Yes; Delegate Robinson, No; Delegate Rothschild, No; Delegate Schrag, No; Delegate Shelton, Yes; Delegate Simmons, No Response; Delegate Street, No; Delegate Terrell, Pass; Delegate Thomas, No; Delegate Warren, Yes; Delegate Baldwin, No Response; Delegate Barnes, No; Delegate Blount, No Response; Delegate Bruning, Yes; Delegate Clark, No Response; Delegate Coates, No Response; Delegate Cooper, No; Delegate Corn, No; Delegate Croft, Yes; Delegate Eichorn, No; Delegate Feely, Yes; Delegate Freeman, No Response; Delegate Garner, No Response; Delegate Graham, Yes; Delegate Harris, Pass;

Delegate Jones, Yes; Delegate Kameny, Abstain; Delegate Nixon, Abstain; Delegate Terrell, Abstain; Delegate Cassell, No Response; Delegate Harris, No; Delegate Cassell, No Response.

Madame Chairman, the tally stands 14 in favor of the Jackson amendment, 16 not in favor, 3 abstaining.

MS. JONES: The motion fails.

We now have the Corn amendment.

MS. NAHIKIAN: Madame Chair, point of order.

MS. JONES: Delegate Nahikian?

MS. NAHIKIAN: Madame Chair, I kept the roll call

as it was called, and I have 15 No votes, 14 yes votes, and 3 abstentions.

MR. COOPER: Well, you could keep it, but this is the record.

MS. JONES: Delegate Barnes?

MR. BARNES: Yes, with all respect to Delegate Corn, the language that exists in our Section 1 was intended to have the same effect as her amendment. I have to have faith in this language because it was written by one of the most prominent labor lawyers in the country, Mr. Dan Jordan, and I think it would have the same effect as the Corn amendment, and I prefer this version. That is why I am against the Corn amendment.

MR. COOPER: I have to speak against the Corn amendment simply because I don't think it serves my particular purpose here. My own feeling would be to get rid of this section in its entirety because the Corn amendment still carries one word in it that is offensive to me and that is the word, "strike". I don't think that that right is fundamental. I don't think that that right should be guaranteed. I think the Committee has embarked upon an endeavor to cloud the issue.

Let me point once more to the Committee report. The Committee report has in here specific language where it

attempts to define some of the language that it used in this section. It defines "organize:"; it defines "bargain collectively"; it defines "fundamental", "abridge"; it defines "narrowly drawn". However, where the words, "right to strike" appears, which is the important issue here, it is not underlined. It is hidden in this report, and it is hidden for a reason. It is hidden because those Committee members in favor of it do not want to face up to it. They want to do everything they possibly can to cloud it and delay it and to make it an unknown issue. "The right to strike," line 4, "is an inherent part". Why is "The right to strike" underlined? Why is "inherent part" underlined? That is not the important issue. So it has been made even clearer that the intent of this Committee is to force this thing through by clouding it and degrading it in this way.

I think that by doing so, that in itself is an insult to my intelligence. It is an insult to the intellectual capacity of this Convention, and it is an insult to the legislative history of this Committee that is given to this report.

I think that we should vote this Corn amendment down so that we can freely vote this entire section down.

MS. JONES: Delegate Kameny?

MR. KAMENY: Thank you, Madame Chair.

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